

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 13185 of 2002

Between:

1. Mr. Gulzar Hussain, S/o Mir Mukram Ali

aged 28 years r/o 11-4-655 Saifabad

Hyderabad.

2. Zia K.Iqbal s/o late Iqbal, aged 35 years

r/o 11-4-655/1-2, 1st floor, Saifabad

Hyderabad.

3. D.Narayana Reddy s/o D.Reddy

aged 28 years, r/o 11-4-666, Saifabad,

Hyderabad.

..... PETITIONERS

AND

1. Municipal Corporation of Hyderabad

rep. by its Commissioner

Lower Tankbund Road, Hyderabad.

2. Hyderabad Urban Development Authority

rep. by its V.C. & M.D.

1-8-323, Paigah Palace

Police Lines, Secunderabad.

3. Hyderabad Metropolitan Water Supply

and Sewerage Works Department

rep. by its Managing Director

near Visweswaraiah Bhavan

Khairatabad, Hyderabad.

4. A.P. Pollution Control Board

rep. by its Member Secretary

Maitrivanam, HUDA Complex

Ameerpet, Hyderabad.

5. The Station House Officer

Nampally Police Station

Nampally, Hyderabad.

6. The Diamond Jubilee School

Premises No.11-4-652, Rockland

Lakdi-ka-pool, Hyderabad.

7. Saba Function Hall

Premises No. 11-4-654

Lakdi-Ka-pool, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ particularly one in the nature of Writ of Mandamus declaring the inaction of the respondents 1 to 5 in failing to take steps for prevention of the illegal action of respondents 6 & 7 in starting a school and function hall in Lakdi-ka-pool area, Hyderabad as being illegal and unconstitutional.

Counsel for the Petitioner: Mr.S.NIRANJAN REDDY

Counsel for Respondent No.1: Mr.Ghanta Rama Rao

Counsel for Respondent No.2: Mr.B.Viswanadha Reddy

Counsel for Respondent No.3: Mr.P.Kishore Rao

Counsel for Respondent No.4: Mr.S.V.Bhatt

Counsel for Respondent No.5: G.P. for Home

Counsel for Respondent No.6: None appeared.

Counsel for Respondent No.7: Mr.C.V.Mohan Reddy.

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

This is a Petition filed as Public Interest Litigation by three individuals residing at Saifabad complaining against the action of Respondents 6 and 7 in running a school and function hall in residential area in premises No. 11-4-652, Rockland and premises No. 11-4-654, Lakdi-ka-pool, Hyderabad. Petitioners are also residents of Lakdi-ka-pool and are stated to be living in the vicinity of the Niloufer Hospital premises. It is stated that respondents 1 to 5 have not taken any steps against Respondent Nos.6 and 7 in running school and function hall in residential area, which are causing environmental problem including noise pollution. In nutshell, the allegations are that illegal acts are being committed by the respondents 6 & 7 by continuing to run the school and function hall.

Detailed affidavits in reply have been filed by Respondents 1 and 7. Respondent No.7 has furnished details of various permits and licences obtained for running the function hall. He states that he is an ex-Service Officer of Indian Army and licence-holder of function hall and has never tried to violate any rule or regulation and has not caused any inconvenience to any resident in the surrounding area. Parking is provided inside the compound and the surroundings are maintained cleanly. No orchestra is permitted to be played. He states that number of commercial shops,

offices and residential complexes have come up in the vicinity and there is traffic congestion, because of which, there is noise pollution. It is stated that the School has been shifted after permission from the competent authority.

There is the latest report dated: 26.8.2004 submitted by the Andhra Pradesh Pollution Control Board stating that monitoring was done on 25.8.2004 at 2.30 p.m. before the function and at 8.00 p.m. during the function in the presence of the surrounding residents and the representatives of the Function hall and the noise levels are exceeding the limits for residential area even in the absence of orchestra/Band in the function hall. The report says that noise level was higher because of the action on the part of Respondent No.7. So far as noise level is concerned, it is the Commissioner of Police, who is the competent authority under the Rules to hear complaints and pass appropriate orders. In such like petition, when Respondent No.7 continued to run the function hall with various licences, we leave it open to the petitioners to submit a complaint to the Commissioner of Police, in case, Respondent No.7 is exceeding any noise level, and the Commissioner of Police shall take appropriate steps in ensuring the standards of noise. Since the Commissioner of Police is not a party to the Writ Petition, we direct him that as and when petitioners submit any representation, it will be duly considered by him. Ordered accordingly.

The Writ Petition stands disposed of. No costs.

DEVINDER GUPTA, C.J.

30.9.2004.

C.V.RAMULU, J.

VR.

To

1. The Commissioner, Municipal Corporation of Hyderabad,
Lower Tankbund Road, Hyderabad.
2. The Vice-Chairman & Managing Director, Hyderabad Urban Development
Authority, 1-8-323, Paigah Palace
Police Lines, Secunderabad.
3. The Managing Director, Hyderabad Metropolitan Water Supply
and Sewerage Works Department, near Visweswaraiah Bhavan
Khairatabad, Hyderabad.
4. The Member-Secretary, A.P. Pollution Control Board
Maitrivanam, HUDA Complex Ameerpet, Hyderabad.
5. The Station House Officer
Nampally Police Station
Nampally, Hyderabad.
6. The Commissioner of Police, Hyderabad.
7. Two CCs to Govt. Pleader for Home, High Court Buildings, Hyderabad (OUT).
8. Two CD copies.